

**LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS**  
**7500 Odawa Circle**  
**Harbor Springs, MI 49740**

RESOLUTION # 081023- 01

**GRANT OF RIGHT-OF-WAY FOR NON-EXCLUSIVE UTILITY EASEMENT TO  
EVERSTREAM GLC HOLDING COMPANY LLC**

**WHEREAS** the Waganakising Odawak Nation, known as the Little Traverse Bay Bands of Odawa Indians, and its citizens are vested with inherent sovereignty and right to self-governance;

**WHEREAS** the Little Traverse Bay Bands of Odawa Indians ("LTBB" or "Tribe") is a federally recognized Indian Tribe whose nation-to-nation relationship with the United States was reaffirmed by Public Law 103-324, and is a party to Treaties with the United States, including the Treaty of Washington of March 28, 1836 (7 Stat. 491) and the Treaty of Detroit of 1855 (11 Stat. 621);

**WHEREAS** the LTBB Tribal Constitution, duly adopted by the Tribal Citizenship on February 1, 2005, vests the Tribal Council with certain legislative powers, including the "power to . . . 8. Enact laws governing the encumbrance of Tribal lands or other intangible assets," Art. VII(D) and to "11. Approve land use plans and zoning of lands subject to the jurisdiction of the Little Traverse Bay Bands of Odawa Indians," Art. VII(D);

**WHEREAS** among the LTBB's tribal trust lands are the adjoining parcels informally known as "Victories Square," (trust deed recorded at Liber 717 Page 157), and the "Health Park" (trust deed recorded at Liber 1111 Page 227) with the legal descriptions as follows:

"Victories Square:" In the Township of Bear Creek, County of Emmet and State of Michigan:

Commencing at the South 1/4 corner of Section 7, Township 34 North, Range 5 West; thence North 01°02'30" East 133.03 feet to a T-iron stake which is the Point of Beginning; thence West 425.07 feet to a T-iron stake; thence North 05°08'30" East 120.16 feet to a T-iron stake; thence North 03°06'30" East 408.43 feet to a T-iron stake; thence South 89°54'30" East 401.67 feet to a T-iron stake; thence South 01°02'30" West 526.91 feet to the Point of Beginning; being a part of the Southeast 1/4 of the Southwest 1/4 of said Section 7, including all the right, title and interest of the grantor in and to any

alleys, streets, ways strips or gores abutting or adjoining the land, subject to rights of way and other servitudes of record, including Declaration of Taking in favor of Michigan State Highway Commission as recorded in Liber 93, Page 463, Emmet County Records; right of way in favor of Springvale-Bear Creek Sewage Disposal Authority recorded in Liber 293, Page 96, Liber 415, Pages 390 and 391, Emmet County Records.

And "Health Park:" In the Township of Bear Creek, County of Emmet, State of MI, Michigan Meridian, containing approximately 33.30 acres, more or less:

PARCEL 1: Part of the South ½ of the Southeast ¼ of Section 7, Township 34 North, Range 5 West, Bear Creek Township, Emmet County, Michigan, described as: Commencing at the South ¼ corner of Section 7, Township 34 North, Range 5 West, Emmet County, Michigan, thence along the South line of said Section 7 and the centerline of Lears Road, North 88°48'25" East 542.21 feet; thence North 01°07'09" West 49.10 feet; thence 33.96 feet along the arc of a circular curve to the right, radius 564.00 feet, Delta 03°26'59", chord North 00°37'18" East 33.95 feet to the place of beginning; thence South 88°48'25" West 491.41 feet; thence North 00°08'05" East 651.39 feet; thence North 89°38'08" East 146.80 feet; thence North 00°08'05" East 50 feet; thence North 89°38'08" East 269.27 feet; thence South 35°26'39" East 241.59 feet, thence South 45°45'12" East 136.88 feet; thence 98.81 feet along the arc of a circular curve to the left, radius 273.97 feet, Delta 20°39'50", chord South 36°49'24" West 98.27 feet; thence South 26°29'28" West 105.20 feet, thence 237.83 feet along the arc of a circular curve to the left, radius 564.00 feet, Delta 24°09'37", chord South 14°24'31" West 236.07 feet to the Place of beginning.

PARCEL 2 (BUFFER AREA ADJACENT TO INDEPENDENCE VILLAGE): Commencing at the South ¼ corner of Section 7, Township 34 North, Range 5 West; thence along the South line of said Section 7 and the centerline of Lears Road, North 88°48'25" East 1761.59 feet; thence North 00°01'30" West 343.33 feet to the Place of Beginning; thence continuing North 00°01'30" West 793.05 feet; thence North 88°53'00" East 842.69 feet; thence along the East line of said Section 7 and the centerline of Howard Road, North 00°01'17" West 51.01 feet; thence along the Southerly line of Hager Drive in the following 8 courses: South 89°58'43" West 106.47 feet, 95.93 feet along the arc of a circular curve to the right, radius 454.36 feet, delta 12°05'47", chord North 83°58'43" West 95.75 feet, 126.73 feet along the arc of a circular curve to the left, radius 320.14 feet, delta 22°40'52", chord North 89°15'46" West, 125.91 feet, 200.33 feet along the arc of a circular curve to the right, radius 687.72 feet, delta

18°21'22", chord South 88°34'19" West, 219.39 feet, 77.39 feet along the arc of a circular curve to the left, radius 366.96 feet, delta 12°05'01", chord North 88°17'41" West, 77.25 feet, South 85°40'02" West, 169.01 feet; 125.08 feet along the arc of a circular curve to the left, radius 166.99 feet, delta 42°54'59" chord South 64°12'35" West 122.17 feet and South 42°45'07" West 15.44 feet; thence North 88°53'00" East, 20.77 feet; thence South 00°01'30" East 792.10 feet; thence North 89°58'31" East 49.87 feet to the Point of Beginning.

PARCEL 3 (BUFFER AREA ADJACENT TO HEALTH PARK):  
Beginning at the South 1/4 corner of Section 7, Township 34 North, Range 5 West; thence along the South line of said Section 7 and the centerline of Lears Road, North 88°48'25" East 542.21 feet; thence along the Westerly line of Hager Drive in the following 2 courses: North 01°07'09" West 49.10 feet and 33.96 feet along the arc of a circular curve to the left, radius 564.00 feet, delta 03°26'59", chord North 00°37'18" East 33.95 feet; thence South 88°48'25" West 491.41 feet; thence North 00°08'05" East 651.39 feet; thence South 89°38'08" West 50.00 feet; thence along the North and South 1/4 line of said Section 7, South 00°08'05" West 735.17 feet to the Place of Beginning; being a part of the South 1/2 of the Southeast 1/4 of said Section 7 (Also known as Parcel B)

PARCEL 4 (REMAINDER PARCEL NORTH OF HAGER DRIVE):  
Commencing at the South 1/4 corner of Section 7, Township 34 North, Range 5 West; thence along the North and South 1/4 line of said Section 7, North 00°08'05" East 735.17 feet to the Place of Beginning; thence North 89°38'08" East 50.00 feet; thence along the boundary of the former HEALTH PARK MEDICAL OFFICE CONDOMINIUM, according to the Master Deed recorded in Liber 630, Pages 586 through 624, inclusive, Emmet County Records and designated as Emmet County Condominium Subdivision Plan No. 176, (said condominium having been terminated by the instrument recorded in Liber 1098, Page 610, Emmet County Records) in the following 5 courses: North 89°38'08" East 146.80 feet, North 00°08'05" East 50.00 feet, North 89°38'08" East 269.27 feet, South 35°26'39" East 241.59 feet and South 45°45'12" East 136.88 feet; thence along the Northerly line of Hager Drive in the following 15 courses: 96.94 feet along the arc of a circular curve to the right, radius 273.97 feet, delta 20°16'23", chord North 57°17'32" East 96.43 feet, North 67°25'42" East 87.35 feet, 152.97 feet along the arc of a circular curve to the left, radius 208.00 feet, delta 42°08'18", chord North 46°21'35" East 149.55 feet, North 25°17'23" East 314.10 feet, 313.12 feet along the arc of a circular curve to the right, radius 274.00 feet, delta 65°28'31", chord North 58°01'39" East 296.35 feet, South 89°14'07" East 95.40 feet,

174.28 feet along the arc of a circular curve to the left, radius of 207.98 feet, delta 48°00'45", chord North 66°45'28" East 169.23 feet, North 42°45'07" East 58.24 feet along the arc of a circular curve to the right, radius 232.99 feet, delta 42°54'59", chord North 64°12'35" East 174.62 feet, North 85°40'02" East 169.01 feet, 91.31 feet along the arc of a circular curve to the right, radius 432.96 feet, delta 12°05'01", chord South 88°17'41" East 91.14 feet, 199.18 feet along the arc of a circular curve to the left, radius 621.72 feet, delta 18°21'22", chord North 88°34'19" East 198.33 feet, 152.86 feet along the arc of a circular curve to the right, radius 386.14 feet, delta 22°40'52", chord South 89°15'46" East 151.86 feet, 81.99 feet along the arc of a circular curve to the left, radius 388.36 feet, delta 12°05'47", chord South 83°58'43" East 81.84 feet, and North 89°58'43" East 106.47 feet; thence along the East line of said Section 7 and the centerline of Howard Road, North 00°01'17" West 58.09 feet; thence along the North line of the South ½ of the Southeast ¼ of said Section 7, as monumented, South 88°53'16" West 2600.56 feet; thence along the North and South ¼ line of said Section 7, South 00°08'05" West 584.95 feet to the Place of Beginning; being part of the South ½ of the Southeast ¼ of said Section 7.

PARCEL 5: Commencing at the South ¼ corner of Section 7, Township 34 North, Range 5 West; thence along the South line of said Section 7 and the centerline of Lears Road, North 88°48'25" East 542.21 feet to the Place of Beginning; thence North 01°07'09" West 49.10 feet; thence 271.78 feet along the arc of a circular curve to the right, radius 564.00 feet, delta 27°36'36", chord North 12°41'10" East, 269.17 feet; thence North 26°29'28" East, 105.20 feet; thence 195.75 feet along the arc of a circular curve to the right, radius 272.97 feet, delta 40°56'13", chord North 46°57'37" East 191.61 feet; thence North 67°25'42" East 87.35 feet; thence 152.97 feet along the arc of a circular curve to the left, radius 208.00 feet, delta 42°08'18", chord North 46°21'35" East, 149.55 feet; thence North 25°17'23" East 314.10 feet; thence 313.12 feet along the arc of a circular curve to the right, radius 274.00 feet, delta 65°28'31", chord North 58°01'39" East 296.35 feet; thence South 89°14'07" East 95.40 feet; thence 174.28 feet along the arc of a circular curve to the left, radius 207.98 feet, delta 48°00'45", chord North 66°45'28" East 169.23 feet; thence North 42°45'07" East 58.24 feet; thence 174.52 feet along the arc of a circular curve to the right, radius 232.99 feet, delta 42°54'59", chord North 64°12'35" East, 170.46 feet; thence North 85°40'02" East, 169.01 feet; thence 91.31 feet along the arc of a circular curve to the right, radius 432.96 feet, delta 12°05'01", chord South 88°17'41" East, 91.14 feet; thence 199.18 feet along the arc of a circular curve to the left, radius 621.72 feet, delta 18°21'22", chord North 88°34'19" East

198.33 feet; thence 152.86 feet along the arc of a circular curve to the right, radius 386.14 feet, delta 22°40'52", chord South 89°15'46" East, 151.86 feet; thence 81.99 feet along the arc of a circular curve to the left, radius 388.36 feet, delta 12°05'47", chord South 83°58'43" East 81.84 feet; thence North 89°58'43" East, 106.47 feet; thence along the East line of said Section 7 and the centerline of Howard Road, South 00°01'17" East, 66.00 feet; thence South 89°58'43" West 106.47 feet; thence 95.93 feet along the arc of a circular curve to the right, radius 454.36 feet, delta 12°05'47", chord North 83°58'43" West, 95.75 feet; thence 126.73 feet along the arc of a circular curve to the left, radius 320.14 feet, delta 22°40'52", chord North 89°15'46" West, 125.91 feet; thence 220.33 feet along the arc of a circular curve to the right, radius 687.72 feet, delta 18°21'22", chord South 88°34'19" West, 219.39 feet; thence 77.39 feet along the arc of a circular curve to the left, radius 366.96 feet, delta 12°05'01", chord North 88°17'41" West 77.25 feet; thence South 85°40'02" West 169.01 feet; thence 125.08 feet along the arc of a circular curve to the left, radius 166.99 feet, delta 42°54'59", chord South 64°12'35" West 122.17 feet; thence South 42°45'07" West, 58.24 feet; thence 229.59 feet along the arc of a circular curve to the right, radius 273.98 feet, delta 48°00'45", chord South 66°45'28" West, 222.93 feet; thence North 89°14'07" West 95.40 feet; thence 237.69 feet along the arc of a circular curve to the left, radius 208.00 feet, delta 65°28'31", chord South 58°01'39" West, 224.97 feet; thence South 25°17'23" West 314.10 feet; thence 201.51 feet along the arc of a circular curve to the right, radius 274.00 feet, delta 42°08'18", chord South 46°21'35" West, 197.01 feet; thence South 67°25'42" West, 87.35 feet; thence 148.59 feet along the arc of a circular curve to the left, radius 207.97 feet, delta 40°56'13", chord South 46°57'37" West, 145.45 feet; thence South 26°29'28" West, 105.20 feet; thence 239.98 feet along the arc of a circular curve to the left, radius 498.00 feet, delta 27°36'36", chord South 12°41'10" West 237.67 feet; thence South 01°07'09" East, 49.02 feet; thence along the South line of said Section 7 and the centerline of Lears Road, South 88°48'25" West, 66.00 feet to the Place of Beginning; being a part of the South ½ of the Southeast 1/4 of said Section 7.

**WHEREAS** under the federal regulations promulgated at 25 C.F.R. § 169.4(a), the Bureau of Indian Affairs requires any legal entity to obtain a right-of-way with the consent of the Tribe to cross tribal lands;

**WHEREAS** to provide data service to the facilities comprising Independence Village (site also referenced as "Great Lakes Senior Living" in Everstream's application materials), located at 965 Hager Drive in Petoskey, Michigan, Everstream GLC Holdings Company LLC ("Everstream" or "Grantee") has requested a

utility easement affecting tribal trust lands the along Lears Drive, a tribally-maintained road, with said easement consisting of conduit, fiberoptic cables and appurtenances (collectively, "the facilities");

**WHEREAS** the Tribe is willing to authorize a limited, non-exclusive utility easement for the benefit of Grantee solely for the purposes stated herein ("the Grant") subject to the terms and conditions contained in the Easement Agreement attached as Exhibit A;

**THEREFORE BE IT RESOLVED:**

1. In fulfillment of 25 C.F.R. § 169.107(a), subject to the terms, conditions, and limitations set out in the Easement Agreement, the Little Traverse Bay Bands of Odawa Indians hereby consents to and authorizes a limited, non-exclusive utility easement to Everstream for the installation, repair, maintenance, and operation of the facilities, as proposed in the permit plans developed by Bryler Design Partners, LLC, which are attached hereto and incorporated by reference as Exhibit B.
2. The Little Traverse Bay Bands of Odawa Indians authorizes Everstream or its agent to enter upon the subject lands to survey the property.
3. The Little Traverse Bay Bands of Odawa Indians hereby requests the Superintendent of the Michigan Agency to prepare and approve the right-of-way documents necessary to authorize the utility easement.
4. The Tribal Chairperson or her duly delegated representatives are authorized, for and on behalf of the Little Traverse Bay Bands of Odawa Indians, to execute any documents necessary to complete the Grant and the project, including permitting Everstream or its designee entrance upon said Tribal lands for purposes of surveying and completing assessments, and waiving valuation and consideration.

## CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Tribal Resolution was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on August 10, 2023 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Kiogima				X
Tamara Munson	X			
William Ortiz	X			
Aaron Otto	X			
Melissa Pamp	X			
Jordan Shananaquet	X			
Leroy Shomin	X			
Emily Proctor	X			
Marcella Reyes	X			

Date: 08/15/2023

Marcella R. Reyes  
Marcella Reyes, Legislative Leader

Date: 08/15/2023

Emily Proctor  
Emily Proctor, Tribal Council Secretary

Received by the Executive Office on 8-15-2023 by Sandra Worthington

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: 8-17-2023

Regina Gasco Bentley  
Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on

08.17.2023 by Vincent Baker